

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION**

CASE NO. 23-81124-CIV-CANNON/McCabe

MICHAEL JOHNSON

Movant,
v.

UNITED STATES OF AMERICA,

Respondent.
_____ /

**ORDER ACCEPTING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION [ECF No. 36]**

THIS CAUSE comes before the Court upon the Magistrate Judge's Report and Recommendation (the "Report") [ECF No. 36], filed on October 22, 2024. On August 7, 2023, Movant filed a Motion to Vacate his sentence under 28 U.S.C. § 2255 (the "Motion") [ECF No. 1]. On May 31, 2024, the Court denied Claims 1, 2, 4, and 5 of the Motion and referred Claim 3 to Magistrate Judge Ryon M. McCabe for an evidentiary hearing [ECF No. 13]. On October 22, 2024, following an evidentiary hearing, Judge McCabe issued a Report recommending that Claim 3 of the Motion be denied [ECF No. 36]. Objections to the Report were due on or before November 5, 2024 [ECF No. 36 p. 8]. Neither party filed objections to the Report, and the time to do so has expired.

To challenge the findings and recommendations of a magistrate judge, a party must file specific written objections identifying the portions of the proposed findings and recommendation to which objection is made. *See* Fed. R. Civ. P. 72(b)(3); *Heath v. Jones*, 863 F.2d 815, 822 (11th Cir. 1989); *Macort v. Prem, Inc.*, 208 F. App'x 781, 784 (11th Cir. 2006). A district court reviews de novo those portions of the report to which objection is made and may accept, reject,

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or modify in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. § 636(b)(1). To the extent a party fails to object to parts of the magistrate judge's report, the Court may accept the recommendation so long as there is no clear error on the face of the record. *Macort*, 208 F. App'x at 784. Legal conclusions are reviewed de novo, even in the absence of an objection. *See LeCroy v. McNeil*, 397 F. App'x 554, 556 (11th Cir. 2010); *Cooper-Houston v. S. Ry. Co.*, 37 F.3d 603, 604 (11th Cir. 1994).

Following review, the Court finds no clear error of fact and no error of law in the well-reasoned Report. Accordingly, for the reasons set forth in the Report [ECF No. 36], it is hereby

ORDERED AND ADJUDGED as follows:

1. The Report and Recommendation [ECF No. 36] is **ACCEPTED**.
2. Claim 3 of the Motion [ECF No. 1] is **DENIED**.
3. Final judgment to be entered by separate order.

DONE AND ORDERED in Chambers at Fort Pierce, Florida this 18th day of November 2024.


AILEEN M. CANNON
UNITED STATES DISTRICT JUDGE

cc: counsel of record